

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06CV433-1-MU

JAMES HENRY CHANCE,)
)
 Plaintiff,)
)
 v.)
)
 RANDALL, et al.,)
)
 Defendants.)
)
)
 O R D E R

THIS MATTER comes before the Court upon Defendants Randall, Meade, and the North Carolina Department of Crime Control and Public Safety, Highway Patrol's Motion to Dismiss, filed April 25, 2007; and Defendant Gaston County's Motion to Dismiss filed June 26, 2007.

On October 16, 2006, Plaintiff's Complaint was transferred to this Court from the United States District Court for the Eastern District of Virginia. On April 25, 2007, Defendants Randall, Meade, and the North Carolina Department of Crime Control and Public Safety, Highway Patrol filed a Motion to Dismiss. On June 13, 2007, after receiving this Motion to Dismiss, this Court sent Plaintiff an Order in compliance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). In this Order, the Court notified Plaintiff that these Defendants had filed a Motion to Dismiss and that if Plaintiff failed to respond to this motion within thirty days, the Court might grant the Motion to Dismiss. As of this date, over a month and a half after the deadline, Plaintiff has failed to respond to Defendants Randall, Meade, and the North Carolina Department of Crime Control and Public Safety, Highway Patrol's Motion to Dismiss.

On June 26, 2007, Defendant Gaston County filed a Motion to Dismiss. On June 27, 2007, after receiving the Motion to Dismiss, this Court sent Plaintiff another Order in compliance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). In this Order, the Court notified Plaintiff that Defendant Gaston County had filed a Motion to Dismiss and that if Plaintiff failed to respond to this motion within thirty days, the Court might grant the Motion to Dismiss. As of this date, Plaintiff has failed to respond to the Defendant Gaston County's Motion.

The Court has carefully reviewed both Motions to Dismiss and for the reasons set forth in these motions finds that Defendants are entitled to a dismissal.¹

THEREFORE, IT IS HEREBY ORDERED that:

1. Defendants Randall, Meade, and the North Carolina Department of Crime Control and Public Safety, Highway Patrol's Motion to Dismiss is **GRANTED**;
2. Defendant Gaston County's Motion to Dismiss is **GRANTED**;
3. Defendants "a male nurse" and "a medical services contractor" are dismissed for failure to state a claim; and
4. Plaintiff's Complaint is **DISMISSED**.

Signed: August 7, 2007



Graham C. Mullen
United States District Judge



¹ The Court notes that Plaintiff has failed to identify two defendants – "a male nurse" and "a medical services contractor" - so that they can be served. They too are dismissed from this case for failure to state a claim against them.

